

REMARKS

I. Summary of the Office Action

In the Office Action dated June 8, 2010, the Examiner issued election/restriction requirements. The Examiner stated that restriction is required under 35 U.S.C. §§ 121 and 372 and therefore, required Applicant to elect claims directed to one of what the Examiner asserted to be two patentably distinct inventions. In addition, the Examiner asserted that the claims are directed to two separate species, and required Applicant to elect a single species.

II. Status of the Claims

Applicant has withdrawn claims 1-8 and 19. In addition, Applicant has amended claims 1-9, 11, 13, 14, and 16-20. Support for these amendments can be found throughout the specification. Applicant submits that no new matter has been added. Now pending are claims 9-18 and 20, of which claim 9 is independent.

III. Response to Election/Restriction Requirements

a. Traverse of the Restriction Requirement

Applicant respectfully requests that the Examiner reconsider and withdraw the above-mentioned restriction requirement.

Under MPEP § 803, for a restriction requirement to be proper, the Examiner has the burden to make a *prima facie* case that the following two criteria are met:

- (1) The inventions must be independent or distinct as claimed; and
- (2) There would be a serious burden on the Examiner if restriction is not required.

Applicant hereby traverses the Examiner's restriction requirement on the bases that (1) the two groups of claims are not so distinct from one another as to warrant restriction; and (2) examining both groups of claims together would not pose a serious burden to the Examiner.

The two groups of claims are not so distinct from one another as to warrant restriction for at least the reason that they generally rely upon substantially the same features for patentability such that it would not constitute an undue burden for the Examiner to examine both groups of claims (i.e., Group I (claims 1-8) and Group II (claims 9-20)) at once. Further, Applicant submits that the amendments to claims 1 and 9 help clarify that the two groups of claims are not so distinct as to warrant restriction. Moreover, Applicant points out that the corresponding EP application granted without a unity-of-invention objection. See EP 1 727 677 B1.

b. Provisional Elections

Regarding the restriction requirement, Applicant provisionally elects to proceed with Group II, which the Examiner stated is claims 9-20.

Regarding the species election requirement, Applicant elects to proceed with Species A, which the Examiner stated is Figures 1-3. In addition, Applicant submits that claims 1-17 and 20 are generic and that claims 1-18 and 20 are readable on elected Species A.

IV. Conclusion

Applicant reserves the right to prosecute the subject matter of non-elected claims in subsequent divisional applications without prejudice. Additionally, Applicant reserves the right to request rejoinder of any withdrawn claim directed to a non-elected species should any generic claim be held allowable. If the Examiner believes that a discussion of this matter would be helpful, the Examiner is invited to call the undersigned attorney at 312 913-3317.

Respectfully submitted,

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